



This document is scheduled to be published in the Federal Register on 01/27/2016 and available online at <http://federalregister.gov/a/2016-01630>, and on FDsys.gov

DEPARTMENT OF TRANSPORTATION

[4910-9X]

Office of the Secretary

Mounir R. Khouri; Public Interest Exclusion Order

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: On January 20, 2016, the Department of Transportation (DOT) issued a decision and order under the Procedures for Transportation Workplace Drug and Alcohol Testing Programs that excludes a service agent, Mounir R. Khouri, from providing drug and alcohol testing services in any capacity to any DOT-regulated employer for a period of 5 years. Mr. Khouri provided Consortium/ Third Party Administrator Services (C/TPA) and Medical Review Officer (MRO) services to DOT-regulated trucking companies. Mr. Khouri pled guilty to criminal charges that he made materially false statements that an MRO had reviewed drug test results, when a qualified MRO had not done so. This Federal Register publication serves as notice to the public that DOT-regulated employers or their service agents must stop using the services of Mounir R. Khouri for administering their DOT-regulated drug and/or alcohol testing programs.

DATES: The effective date of the Public Interest Exclusion is January 20, 2016 and it will remain in effect until January 20, 2021.

FOR FURTHER INFORMATION CONTACT: Patrice M. Kelly, Acting Director,
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SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of the Department's regulation at 49 CFR part 40 (Part 40), Subpart R, Public Interest Exclusions (PIE), the Federal Motor Carrier Safety Administration (FMCSA) issued a Notice of Proposed Exclusion (NOPE) to Mr. Khouri on August 27, 2015, notifying him that he had engaged in serious noncompliance. In the NOPE, the FMCSA stated that the Department's Office of the Inspector General had conducted a criminal investigation that revealed that Mr. Khouri subverted the MRO's role in the testing process. Specifically, Mr. Khouri held out as performing C/TPA services and he: received laboratory confirmed drug test results and falsely certified that those results were reviewed by a qualified MRO; acted as an MRO, without qualifications to do so, by verifying laboratory confirmed positive test results; and prepared false Federal Drug Testing Custody and Control Forms (CCFs) for untested specimens and misrepresented that the specimens had tested negative. In the United States District Court for the District of Vermont, Mr. Khouri pled guilty and was convicted for making false statements on a CCF. Those false statements indicated that an MRO had reviewed a drug test, when Mr. Khouri knew that had not occurred.

Public Interest Exclusion Decision and Order

On January 20, 2016, the Department issued a PIE against Mounir R. Khouri. This PIE prohibits all DOT-regulated employers and service agents from utilizing Mounir R. Khouri for drug and alcohol testing services in any capacity for a period of 5 years. A full copy of the Department's Decision and Order can be found at <http://www.dot.gov/odapc>.

In accordance with the terms of the Department's Decision and Order and per 49 CFR 40.403(a), Mounir R. Khouri is required to directly notify each of the affected DOT-regulated employer clients in writing about the issuance, scope, duration, and effect of the PIE. The Department is notifying employers and the public about this PIE by publishing it in a "List of Excluded Drug and Alcohol Service Agents" on its website at <http://www.dot.gov/odapc/> and will make the list available upon request. As required by 49 CFR 40.401(d), the Department is publishing this Federal Register notice to inform the public that Mounir R. Khouri is subject to a PIE for 5 years. After January 20, 2021, Mounir R. Khouri, will be removed from the list and the public will be notified of that removal, also in accordance with 49 CFR 40.401(d).

Any DOT-regulated employer who uses the services of Mounir R. Khouri between January 20, 2016 and January 20, 2021 may be subject to a civil penalty for violation of Part 40.

Dated this 20th day of January, 2016, at Washington D.C.

Patrice M. Kelly
Acting Director

Office of Drug and Alcohol Policy Compliance

[FR Doc. 2016-01630 Filed: 1/26/2016 8:45 am; Publication Date: 1/27/2016]